

(5) (A) For the purposes of this section the term "directory information" relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(B) Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent.

(6) For the purposes of this section, the term "student" includes any person with respect to whom an educational agency or institution maintains education records or personally identifiable information, but does not include a person who has not been in attendance at such agency or institution.

(b) (1) No funds shall be made available under any applicable program to any [State or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution] educational agency or institution which has a policy or practice of permitting the release of [personally identifiable records or files (or personal information contained therein)] education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a)) of students without the written consent of their parents to any individual, agency, or organization, other than to the following—

(A) other school officials, including teachers within the educational institution or local educational agency [who] who have been determined by such agency or institution to have legitimate educational interests;

(B) officials of other schools or school systems in which the student seeks, or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

(C) authorized representatives of (i) the Comptroller General of the United States, (ii) the Secretary, (iii) an administrative head of an education agency (as defined in section [409] 408(c) of this Act), or (iv) State educational authorities, under the conditions set forth in paragraph (3) of this subsection; and

(D) in connection with a student's application for, or receipt of, financial aid;

(E) State and local officials or authorities to which such information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974;

(F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;

(G) accrediting organizations in order to carry out their accrediting functions;

(H) parents of a dependent student of such parents as defined in section 1361 of the Internal Revenue Code of 1954; and

(I) subject to regulations of the Secretary, in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons.

Nothing in clause (E) of this paragraph shall prevent a State from further limiting the number or type of State or local officials who will continue to have access thereunder.

(2) No funds shall be made available under any applicable program to any [State or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution] education agency or institution which has a policy or practice of [furnishing, in any form, any personally identifiable information contained in personal school records, to any persons other than those listed in subsection (b) (1)] releasing, or providing access to, any personally identifiable information, in education records other than directory information, or as is permitted under paragraph (1) of this subsection unless—

(A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

(B) such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency.

(3) Nothing contained in this section shall preclude authorized representatives of (A) the Comptroller General of the United States, (B) the Secretary, (C) an administrative head of an education agency or (D) State educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of Federally supported education program, or in connection with the enforcement of the Federal legal requirements which relate to such programs: [Provided, That, except when collection of personally identifiable data is specifically authorized by Federal law, any data collected by such officials with respect to individual students shall not include information (including social security numbers) which would permit the personal identification of such students or their parents after the data so obtained has been collected].

Provided, That except when collection of personally identifiable information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements.

(4) (A) With respect to subsections (c) (1) and (c) (2) and (c) (3), all persons, agencies, or organizations desiring access to the records of a student shall be required to sign a written form which shall be kept permanently with the file of the student, but only for inspection by the parents or student, indicating specifically the legitimate educational or other interest that each person, agency, or organization has in seeking this information. Such form shall be available to parents and to the school official responsible for record maintenance as a means of auditing the operation of the system.]

(4) (A) Each educational agency or institution shall maintain a record, kept with the education records of each student, which will indicate all individuals (other than those specified in paragraph (1) (A) of this section) which have requested or obtained access to a

student's education records maintained by such educational agency or institution, and which will indicate specifically the legitimate interest that each such person, agency, or organization has in obtaining this information. Such record of access shall be available only to parents, to the school official and his assistants who are responsible for the custody of such records, and to persons or organizations authorized in, and under the conditions of, clauses (A) and (C) of paragraph (1) as a means of auditing the operation of the system.

(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student.

(c) The Secretary shall adopt appropriate regulations to protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency, under an applicable program, unless such activities are authorized by law.

(d) For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of postsecondary education the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

(e) No funds shall be made available under any applicable program [unless the recipient of such funds] to any educational agency or institution unless such agency or institution informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of postsecondary education, of the rights accorded them by this section.

(f) The Secretary, or an administrative head of an education agency, shall take appropriate actions to enforce provisions of this section and to deal with violations of this section, according to the provisions of this Act, except that action to terminate assistance may be taken only if the Secretary finds there has been a failure to comply with the provisions of this section, and he has determined that compliance cannot be secured by voluntary means.

(g) The Secretary shall establish or designate an office and review board within the Department of Health, Education, and Welfare for the purpose of investigating, processing, reviewing, and adjudicating violations of the provisions of this section and complaints which may be filed concerning alleged violations of this section [according to the procedures contained in sections 434 and 437 of this Act]. Except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

OMAHA OPENS THEATER FOR PERFORMING ARTS

Mr. HRUSKA, Mr. President, my home city of Omaha will reopen its Orpheum Theater on January 17 of next year. Built in 1927, the theater contains Renaissance-like statuary, Italian marble columns and staircases. With a seating capacity of 2,000, the Orpheum was like the Fox in San Francisco and Loew's Paradise in New York.

December 18, 1974

be at variance with congressional intentions, is in my mind, a serious error especially in the face of determined congressional efforts to legislate reforms of the entire Johnson-O'Malley program. The discrepancies and inequities which are clearly reflected in the 1975 JOM budget only support the need for review of the JOM program and the need for early reform. In this regard, it makes little sense to establish a new allocation system until Congress has a chance to consider the best approach to this problem. The allocation of JOM funds is the prerogative of Congress and any changes in that system should be determined by Congress and not the Bureau of Indian Affairs.

CONCLUSION

Mr. President, over the past few years we have experienced great momentum in developing quality Indian education programs and in providing increased resources to meet the requirements of those programs. Yet, that momentum could be threatened if the "Band Analysis" budgetary system is allowed to operate the Johnson-O'Malley program. I do not doubt for a minute the sincere motivations of those who urged the use of "Band Analysis" in allocating JOM funds. But obviously it just is not working. If we permit a system like "Band Analysis" to determine levels of support without reference to the actual needs of local educational agencies then the role of Johnson-O'Malley as a major force in Indian education programs will be eroded. This, to me, would be unacceptable, not only to those schools affected by JOM but, more importantly, to our Indian citizens and their dreams for educational attainment. The threat to the educational opportunities for Indian children is real under "Band Analysis" and it is for this reason that I find such a system inequitable and clearly inappropriate in meeting the need of those public schools which are on the front line in providing a quality Indian education program.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
Washington, D.C., December 16, 1974
HON. PAUL FANNIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FANNIN: In response to your letter of November 27 concerning Johnson-O'Malley programming, this confirms that the Johnson-O'Malley program will not be included in the Indian Priority System (Band Analysis) in the development of the FY 1977 program needs. The recently published regulations on the administration of the Johnson-O'Malley program now prescribe a formula that is not under the control of local jurisdictions. Therefore, this program is no longer compatible to the band analysis system which provides for local Indian decisions at the field level to make trade-offs among various programs.

Sincerely yours,

MORRIS THOMPSON,
Commissioner of Indian Affairs.

WHITE HOUSE CONFERENCE ON
LIBRARY AND INFORMATION
SERVICES—CONFERENCE REPORT

Mr. PELL. Mr. President, on behalf of the conference committee on Senate Joint Resolution 40, the White House Conference on Library and Information Sciences, I file the report which was agreed to by the House-Senate conferees last evening. This report will be printed as a separate document which will be considered by the Senate after the House has acted. I ask unanimous consent that a Cordon print, showing changes in the existing law, be printed in the Record

to provide a better understanding of the agreement made by the conferees and to show what changes were made in existing law.

There being no objection, the material was ordered to be printed in the Record, as follows:

CHANGES IN EXISTING LAW

PROTECTION OF THE RIGHTS AND PRIVACY OF
PARENTS AND STUDENTS

Sec. 438. (a) (1) (A) No funds shall be made available under any applicable program to any [State or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution] educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students [attending any school of such agency, or attending such institution of higher education, community college, school, preschool, or other educational institution] who are or have been in attendance at a school of such agency or at such institution, as the case may be the right to inspect and review [any and all official records, files, and data directly related to their children, including all material that is incorporated into each student's cumulative record folder, and intended for school use or to be available to parties outside the school or school system, and specifically including, but not necessarily limited to, identifying data, academic work completed, level of achievement (grades, standardized achievement test scores), attendance data, scores on standardized intelligence, aptitude, and psychological tests, interest inventory results, health data, family background information, teacher or counselor ratings and observations, and verified reports of serious or recurrent behavior patterns.] the education records of their children. [Where such records or data include] If any material or document in the education record of a student includes information on more than one student, the parents of [any student shall be entitled to receive, or be informed of, that part of such record or data as pertains to their child.] one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each [recipient] educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to [their child's school records] the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(B) The first sentence of subparagraph (A) shall not operate to make available to students in institutions of postsecondary education the following materials:

(i) financial records of the parents of the student or any information contained therein;

(ii) confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended;

(iii) if the student has signed a waiver of the student's right of access under this subsection in accordance with subparagraph (C), confidential recommendations—

(i) respecting admission to any educational agency or institution,

(ii) respecting an application for employment,

(iii) respecting the receipt of an honor or honorary recognition.

(C) A student or a person applying for admission may waive his right of access to the education records described in clause

(iii) of subparagraph (B), except that such waiver shall apply to recommendations such as if (i) the student is, upon request, notified of the names of all persons making confidential recommendations and (ii) such recommendations are used solely for the purpose for which they were specifically intended. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from such agency or institution.

(2) [Parents shall have an opportunity for a hearing to challenge the content of their child's school records.] No funds shall be made available under any applicable program to any educational agency or institution unless the parents of students who are or have been in attendance at a school of such agency or at such institution are provided an opportunity for a hearing by such agency or institution, in accordance with regulations of the Secretary, to challenge the content of such student's education records, in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein and to insert into such records a written explanation of the parents' respecting the content of such records.

(3) For the purposes of this section the term "educational agency or institution" means any public or private agency or institution which is the recipient of funds under any applicable program.

(4) (A) For the purposes of this section, the term "education records" means, except as may be provided otherwise in subparagraph (B), those records, files, documents, and other materials which—

(i) contain information directly related to a student; and

(ii) are maintained by an educational agency or institution, or by a person acting for such agency or institution.

(B) The term "education records" does not include—

(i) records of instructional supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

(ii) if the personnel of a law enforcement unit do not have access to education records under subsection (b) (1); the records and documents of such law enforcement unit which (I) are kept apart from records described in subparagraph (A), (II) are maintained solely for law enforcement purposes, and (III) are not made available to persons other than law enforcement officials of the same jurisdiction;

(iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

(iv) records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or para-professional acting in his professional or para-professional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be per-
sonal or other appropriate professional of the student's choice.